



**REPUBLIC OF CYPRUS
MINISTRY OF THE INTERIOR**

**Draft Minutes for the 12th AdCo-CPD meeting
November 14th 2012 – rev.1**

Holiday Inn Nicosia City Center

70 Regaena str, 1010 P.O Box. 21212, 1504 Nicosia, Cyprus

Chair: Marios PANAYIDES, CYPRUS

Present:

1	CION	Mikkeli, Tapani
2	GNB-CPD	Yates, Tim
3	CEPMC	Vatavalis, Pavlos
4	AUSTRIA	Mikulits, Rainer
5	AUSTRIA	Fuchs, Nicolaus
6	AUSTRIA	Brugger, Martin
7	BELGIUM	Vertessen, Jacques
8	BULGARIA	Tsalova, Kristina
9	BULGARIA	Yotov, Miroslav
10	CYPRUS	Kouros, Kyriacos
11	CYPRUS	Giavris, Stavros
12	CYPRUS	Patsalosavvi, Andrie
13	CYPRUS	Zervou, Charoulla
14	CZECK REPUBLIC	Simkova, Alena
15	CZECK REPUBLIC	Koslerova, Monika
16	GERMANY	Kathage, Karsten
17	GERMANY	Bernholz, Manuela
18	DENMARK	Rejnholdt Petersen, Anders
19	FINLAND	Vitala, Heikki
20	GREECE	Bei, Georgia
21	GREECE	Ladopoulou, Angela
22	ITALY	Schiaroli, Sergio
23	NETHERLANDS	Kamp, Natasja
24	NORWAY	Veulemans, Mathieu
25	SWEDEN	Bojcic, Avdo
26	SWEDEN	Wessel, Annika

Absent:

1	ESTONIA
2	FRANCE
3	HUNGARY
4	IRELAND
5	LATVIA
6	LITHOUANIA
7	LUXEMBOURG
8	MALTA
9	POLAND
10	PORTUCAL
11	ROMANIA
12	SLOVAKIA
13	SLOVENIA
14	SPAIN
15	UNITED KINGDOM

Apologies

FR, IE, LV, SL and UK have forwarded their apologies for not attending the meeting.

Welcome

AdCo-CPD chair, Mr. Marios Panayides welcomed all AdCo-CPD members to Cyprus, making a nominal reference to the participants attending the meeting for the first time. In addition, he referred to the MSs who forwarded their apologies for not attending the meeting and explained that the documents of the meeting were sent by email due to the information received from the Commission, that it was not yet possible to upload any documents at CIRCA/CIRCABC.

2. Adoption of the agenda (ADCO 12 2)

Agenda was adopted.

3. Adoption of the minutes from 11th AdCo meeting (ADCO 11 3)

The minutes of 11th AdCo meeting were adopted.

4. Horizontal issues (ADCO 12 4A-E)

A. Proposal for a Regulation on Market Surveillance of Non-Food Products

CION stated that the new Regulation on market surveillance applies also to the construction products. The Annex which according to the article 2 of the Regulation, describes the products to which the Regulation will not apply, is included in the update of the draft proposal issued by SANCO committee and mainly describes products such as pharmaceutical, food, products of human and animal origin, etc.

As explained by CION, this Regulation is the result of the political commitment of CION, to deliver by the end of the year, a uniform market surveillance regulation. For this reason, the Regulation will compose a legislative umbrella of all market surveillance regulations. The main issue of the Regulation according to CION is that the Market Surveillance Authority takes action when a product is presumed to present a risk.

As CION stated, Regulation on Market Surveillance of Non-Food Products, repeals articles 20 and 21 of the Regulation (EC) No 765/2008 and articles 56-59 of the Regulation (EU) No 305/2011. The enforcement of the Regulation is planned for the beginning of 2015.

B. Proposal for a Revised Directive on General Product Safety (GPSD)

CION noted that according to some opinions, GPSD covers construction products. This is due to the fact that construction products although they are not consumer products however they compose products that end to the consumers. In addition, CION explained that GPSD can be applied to the construction products through the harmonised framework. (eg.

threshold values) The latest version of the proposal according to CION refers to the Standardisation Regulation.

AT raised questions concerning the changes in the Market Surveillance Legislation only after two year of implementation of the New Legislation Frame. Responding to AT, CION explained that changes result from the political agreement between the European Parliament and CION regarding the demand of the European Parliament for administrative efficiency and unified market surveillance legislation.

Concluding, CION clarified that a consultation with the people involved in market surveillance, for the subject will follow.

C. Investigation for available budget for a new ICSMS input mask (Matters Arising from the 11th AdCo-CPD meeting 2012)

CION stated that the information system for the implementation of article 23 of Regulation (EC) 765/2008, ICSMS, constitutes a fundamental part of market surveillance and for this reason, a funding for an input mask is possible.

D. Technical Secretariat for AdCo-CPD

CION informed the participants about the administrative changes in CION's sector and clarified that the problem with technical secretariat is identified as financial and not legal. For this reason, effort will be made to ensure funding for technical secretariat for AdCo-CPD.

E. Ways for strengthening participation in the meetings (Matters Arising from the 11th AdCo-CPD meeting 2012)

As a way for strengthening participation to the AdCo-CPD meetings, CION will consider the case of compensation of the participation to the meetings.

5.Report from Advisory Group of Notified Bodies (ADCO 12 5)

GNB congratulated CION for the well organised CPR Conference in June 2012 and also presented the comments from GNB-CPD conference on CPR, which was held in October 2012.

Commenting on the presentation, CEPMC supported by CION, stated that CE Marking can only be check by Market Surveillance Authorities and not Notified Bodies.

BE expressed concern whether a certificate is withdrawn by the Notified Body in the cases where the product does not meet the requirements. Responding to BE concerns GNB stated that the certificate is suspended in those cases, until the product is fixed.

Next meeting of the Advisory Group will be held at the end of March. AdCo Chair is invited to attend the meeting.

6. Danish approach to risk assessment and perception of risk (ADCO 12 6A - C)

DK presented the results of the questionnaire on the perception of risk in MSs and the calculation method used for the preparation of the Danish approach to risk assessment. Mainly, three criteria were used for the validation of the risk assessment method, Health and Safety (60%), Compliance with the rules (10%) and Extent of use (30%).

7. Conditions for exception from CE-marking in the CPR (ADCO 12 7A, B)

AT presented the results of the questionnaire on the ‘individual manufactured’ products. According to the results, a product in order to be individually manufactured must be very unique and used in only one project.

CION pointed out that discussion on article 5 in order for clarification, should continue through AdCo with guidelines from SCC.

Reacting to GNB question, CION clarified that derogation from CE marking is under Market Surveillance Authority’s decision.

CION will prepare a working document on article 5 before the 1st of July 2013.

8. Measures for non conforming products (ADCO 12 8A – S)

CY presented the measures taken by the Market Surveillance Authorities in the case of non conforming products. Four cases were investigated, with relative uniform answers. In the case though, of CE marking and/or DoP not available from the economic operator, the actions from the Market Surveillance Authorities according to the results of the questionnaire may vary. Thus, some Market Surveillance Authorities would serve the economic operator a notice to conform, while others would take restrictive measures (to prohibit or restrict the products being available on the market, to withdraw it from the market or to recall it). Concerns were raised on the uniformity of actions between MSs.

CION emphasized that in the case of a serious risk, along with the case of a DoP is not available, article 20 of Regulation (EC) No 765/2008 is applied. Article 56 of Regulation (EU) No 305/2011, as supported by CION, concerns the case of a product not achieving the declared performance and presents a risk for the fulfilment of the basic requirements.

AT pointed out that the deviation between the actual performance of the product and the declared value, must be always taken into account.

AT raised the question to CION, whether a Market Surveillance Authority may impose a fine to an economic operator if this is covered by a national and not European legislation.

Responding to AT's question, CION recommended to MSs to follow the EU uniform approach, where the first step is to ask the economic operator to take actions and if this fails then move to sanctions.

9. Sampling procedures (ADCO 12 9)

CY presented the problem of absence of a sampling procedure for Market Surveillance Authority purposes, from the European harmonised standards, emphasizing on the fact that each MS may follow a different sampling procedure for the same product. As a result according to CY, uniformity of actions between the MSs cannot be achieved.

SE pointed out that they experienced legal problems due to the sampling procedures used and DK limited Market Surveillance actions only to documentary checks.

AT referred to the fact that Regulation (EC) No 765/2008 and Regulation (EU) No 305/2011 describe a different approach than the one described by the harmonised standards. In Regulations 765 and 305 if the declared value is not achieved then actions follow. In contrast, in the harmonised standards, 90% of samples achieve 90% of the declared value, resulting in many non conforming products.

CION acknowledged that sampling for Market Surveillance purposes is a very important issue and noted that the use of statistics for identifying the number of samples needed is unrealistic. In addition, CION recommended proportionality in the actions taken by MSs.

CION recommended AdCo-CPD to contact with CEN in order to discuss further the subject.

10. Conclusions of the 2010 EPS program (ADCO 12 10)

DE presented the results of the 2010 EPS program.

11. The joint market surveillance initiative on EPS (ADCO 12 11A - D)

NO presented the status of the joint market surveillance initiative for 2012 on EPS. The surveillance, involving checking of the accompanied documents and/or lab testing of products, took place from April to November 2012 in 11 MSs (AT, CY, DK, IR, FI, DE, LV, LT, NL, NO, SE).

CION expressed support to this joint action, underlying the importance of establishing common rules and procedures and stated that efficiency can be increased in the future by the establishment of the Technical Secretariat (eg. for the preparation of documents). According to CION, a practical guide on the MS procedures will be published in the future.

12. False Certificates

Various False Certificates were presented by BG, AT, CY and CEPMC.

CION stressed that actions against Notified Bodies when appropriate, must be taken by MSs. CION may ask for inquiries or infringement procedures against MSs in the cases where measures were not taken. Concerning third countries, CION supported that the agreements between third countries and EC can be used.

GNB recommended to MSs to be careful in distinguishing between genuine mistakes and pure fraud.

BG supported by AT, suggested the creation of a public registry for False Certificates.

13. Tour de Table

i National market surveillance programs (ADCO 12_13(i)A, B)

The members of AdCo-CPD were informed about the national market surveillance programs of NL and CY.

CY pointed out the importance of the national MS programs and the exchange of experiences between the MSs.

14. Exchange of views on other issues of common interest and information

i Joint market surveillance initiative for 2013 (ADCO 12_14(i))

The table with the suggestions of 5 MSs (CY, GR, LV, NO, SL) for the product of the joint market surveillance initiative for 2013 was presented to the participants.

CION questioned the use of products covered by ETAGs and not hENs as well as the use of the products heating appliance on pellets and smoke alarms.

AT expressed interest for the initiative of 2013 on the products smoke alarm, cement and gypsum plasterboard.

CY will forward a list with the products suggested in order for the MSs to declare whether they want to participate in the joint action for a specific product.

ii Used construction products (ADCO 12_14(ii))

NL raised a question concerning the responsibility for the CE marking for used products.

AT pointed out that according to article 15 of CPR in the case that a product has been modified then the economic operator, who places the product on the market, takes responsibility and is considered as a 'manufacturer'.

CION noted that for the products covered by a hEN, CE marking is compulsory.

GNB stated that the problem identified with the re-used aggregates is traceability.

iii DoP and/or CE marking examples from the fenestration market (ADCO 12_14(iii)A - F)

CEPMC presented the implementation of CPR on fenestration market.

BE pointed out that the DoP of the product has to be according to CPR and CE marking has to be affixed on the window. CEPMC supported that affixing CE marking on the product is depended on the manufacturer whether it finds it possible, according to article 11 of CPR. Additionally, CEPMC stated that ANNEX III, with the example of DoP, will be revised.

CION noted that the total cost to the manufacturer must be taken into account. Furthermore, CION confirmed the revision of ANNEX III through CION's delegated acts after 1st of July 2013. Discussions about the revision of ANNEX III will take place during AdCo meetings in a later stage.

iv CE marking and importers obligations (ADCO 12_14(iv))

BE raised the question whether there is a conflict between article 13.3 and article 15 of CPR.

Responding to BE question, CION explained that the importer acts as a manufacturer in the case where the importer draws up the DoP and affixes CE marking. In the case where the DoP has been drawn up and CE marking has been affixed by the manufacturer, importers shall indicate on the construction product according to the article 13.3, their name, registered trade name or registered trade mark and their contact address.

15. Chairmanship for 2013 (ADCO 12_15)

For 2013 there will be a co-chairmanship between BE and NL. The first meeting will be scheduled probably in March in Brussels and the second meeting probably during October in The Netherlands.

The agenda of the meetings will include discussions regarding the obligations of distributors and the placing/making available on the market.

16. Meeting provisions

CZ noted that CZ's comments for the risk assessment were not included in the questionnaire on the perception of risk in MSs (item 6). For this reason, CZ will resend their comments to DK.

MINISTRY OF INTERIOR
15 MARCH 2013